

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

In re:

Case No.: 8:16-bk-04709-CPM
Chapter 7

Thomas A. Bell
Sallie K. Bell

Debtor.

MOTION TO SELL REAL PROPERTY AND PAY SECURED CREDITORS
(167 Wood Hall Drive, Mulberry, Florida 33860)

**NOTICE OF OPPORTUNITY TO
OBJECT AND REQUEST A HEARING**

Pursuant to Local Rule 2002-4, the Court will consider the relief requested in this paper without further notice or hearing unless a party in interest files a response within 21 days from the date set forth on the attached proof of service, plus an additional three days for service if any party was served by U.S. Mail. If you object to the relief requested in this paper, you must file a response with the Clerk of the Court at 801 N. Florida Ave., Suite 555, Tampa, FL 33602-3899 and serve a copy on the movant's attorney, Richard M. Dauval, 3900 1st Street North, Suite 100, Saint Petersburg, FL 33703, and any other appropriate persons within the time allowed.

If you file and serve a response within the time permitted, the Court will either schedule and notify you of a hearing, or consider the response and grant or deny the relief requested without a hearing.

If you do not file a response within the time permitted, the Court will consider that you do not oppose the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

COMES NOW Beth Ann Scharrer, Chapter 7 Trustee, by and through her undersigned counsel, and hereby moves for authority to sell certain improved real property, to pay secured creditors, and in support thereof states as follows:

JURISDICTION

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b) (2) (A), (M), (N) and (O).
2. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The basis for the relief requested herein are, *inter alia*, 11 U.S.C. §§ 105, 363(b) and Federal Rules of Bankruptcy Procedure 2002 and 6004.

BACKGROUND

4. On May 31, 2016, the Debtor commenced this case by filing a voluntary petition for relief under Chapter 7 of the United States Bankruptcy Code (the “Petition Date”).
5. Beth Ann Scharrer was appointed Chapter 7 trustee (the “Trustee”).
6. The Debtor owns real property, by virtue of a deed, located at 167 Wood Hall Drive, Mulberry, Florida 33860, more particularly known as:

Lot 28, Imperiallakes Phase Two, according to the plat thereof, recorded in Plat Book 64, Page 1, of the Public Records of Polk County, Florida. (the “Property”).
7. The Trustee completed a title search and found that the Property is encumbered by a mortgage lien. By priority, but not including any outstanding property taxes or municipal liens, the Property is encumbered as follows:
 - a. a first mortgage from Thomas Bell and Sallie Bell, husband and wife in favor of Foundation Financial Group, given to secure the original principal sum of \$270,000.00, dated May 17, 2007 and recorded in Official Records Book 7308, Page 1772 ; as last assigned to Wells Fargo Bank, N.A., as Trustee for the Certificateholders of Soundview Home Loan Trust 2007-OPT3, Asset Backed Certificates, Series 2007-OPT3 by instrument recorded in Official Records Book

- 7748, Page 1820, of the Public Records of Polk County, Florida; most recently serviced by Ocwen Loan Servicing, LLC (the “Secured Creditor” or “Ocwen”);
- b. a Lis Pendens recorded in Official Records Book 9829, Page 1604, of the Public Records of Polk County, Florida.. This Lis Pendens was filed by Ocwen in the process of foreclosing its interest in the Property.
8. The Trustee has accepted an offer from Jacob D. Fullhart and Sunny Glynn Crockett-Fullhart, (the “Buyers”) to purchase the Property in the amount of \$ 160,000.00, as payment in full (subject to Court and lienholder approval). The current offer was not the only offer on the Property but is the highest offer. Moreover, the estate believes it is a fair offer for the current economy and the length the property has remained on the market.
9. Any current real property taxes will be paid prorated.
10. The sale price of \$ 160,000.00, net the closing costs will be enough to satisfy the above referenced mortgage, as agreed to by Ocwen, that encumbers the property and net the estate at least \$8,000.00 (any escrowed surplus or other surplus amounts shall be turned over to the bankruptcy estate). If the affected lienholder no longer consents to their proposed treatment they are hereby on notice that they need to object to the proposed sale of the Property.
11. The Trustee has attached a “DRAFT” Settlement Statement that outlines the proposed distribution of the sale proceeds at closing, as Exhibit “A.”

AUTHORITY TO SELL

12. Pursuant to § 363(b)(1) of the Bankruptcy Code, a trustee, after notice and hearing, may use, sell or lease property of the estate other than in the ordinary course of business.

CONCLUSION

13. The Trustee, in the exercise of her business judgment, believes, and therefore avers, that the proposed sale is in the best interest of the creditors of the bankruptcy estate insofar as there is otherwise no equity in the Property, the Trustee is more familiar with the current market than other interested parties, and a sale under this motion serves the best interest of all interested parties, including the secured creditors. The Buyer has agreed, subject to Court approval, to pay to the Trustee the sum of \$ 160,000.00 in exchange for the Property.

WHEREFORE, the Trustee moves for the entry of an Order substantially in the form attached hereto:

- A. Authorizing the sale of the Property and,
- B. Authorizing the Trustee to take any all actions and to execute any and all documents necessary and appropriate to effectuate and consummate the terms of said sale of the Property free and clear of all liens, encumbrances, or interests, including without limitation, executing a deed conveying the interests of the Debtor or any other party claiming an interest in the Property to the Purchaser;
- C. Authorizing the Trustee and any escrow agent upon the Trustee's written instruction, shall be authorized to make such disbursements on or after the closing of the sale as are required by the purchase agreement or order of this Court, including, but not limited to, (a) all delinquent real property taxes and outstanding post-petition real property taxes pro-rated as of the closing with respect to the real property included among the purchased

assets (b) any outstanding Home Owner's Association fee or assessment arrearages; and

(c) other anticipated closing costs:

Total Sales/Brokers Commission:	
6% to BK Global / McPeak Real Estate Firm, Inc.	\$9,600.00*
* To be shared with cooperating buyer's agent	
Title Charges:	\$ 1,660.00
Government recording / transfer charges:	\$ 1,120.00
Other / Debits	\$ 135.00
(incl. lien search fees, Estoppel Search fee)	
2016 Real Property Taxes Due to Polk County Tax Collector	\$ 1,694.26
Satisfaction of Liens:	
Ocwen (home mortgage)	\$ 136,423.23
Imperialakes Community Services Association II, Inc.	\$ 467.24

The above anticipated closing costs and taxes are subject to per diem charges, changes in prorations, and otherwise represent approximate amounts. The Trustee seeks authority to pay these amounts, or their reasonable equivalent amounts, to the respective payees depending on the subjective per diem alteration.

D. Determining that the Buyer has not assumed any liabilities of the Debtors, and

E. Granting the Trustee such other and further relief as is just and proper.

Respectfully submitted,

/s/ Richard M. Dauval, Esquire
 Richard M. Dauval, Esq.
 Leavengood, Dauval, Boyle & Meyer, P.A.
 3900 1st Street North, Suite 100
 Saint Petersburg, FL 33703
 727-327-3328 x303

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served by U.S. Mail and/or electronic delivery to:
 Wells Fargo Bank, N.A., as Trustee for the Certificateholders of Soundview Home Loan Trust 2007-OPT3, Asset Backed Certificates, Series 2007-OPT3 (a/k/a Ocwen) c/o Keith Labell, Esq., klabell@rasflaw.com;

Imperialakes Community Services Association II, Inc.c/o John Jackson, Registered Agent, 32
Wood Hall Drive, Mulberry, FL 33860
Debtor, Thomas A. Bell and Sallie K. Bell, 167 Wood Hall Dr., Mulberry, FL 33860-8522
Debtor's Counsel, Jordan M. Finley, Esq., jordan@floridalegaladvice.com
Chapter 7 Trustee, Beth Ann Scharrer, bscharrertrustee@gmail.com
United States Trustee, ustp.region21.ecf@usdoj.gov

and all parties of interest on this May 19, 2017.

/s/ Richard M. Dauval, Esquire
Richard M. Dauval, Esq.

American Land Title Association

ALTA Settlement Statement - Combined

Adopted 05-01-2015

FileNo./Escrow No.: 16-387
 Print Date & Time: 5/19/2017 @ 2:54 PM
 Officer/Escrow Officer: Marlene Benner
 Settlement Location:
 605 E. Robinson Street #720
 Orlando, Florida 32801

Prominence Title & Escrow, LLC

605 E. Robinson Street #720
 Orlando, Florida 32801

Property Address: 167 Wood Hall Dr, Mulberry, Florida 33860
 Buyer: Jacob D. Fullhart and Sunny Glynn Crockett-Fullhart, husband and wife
 Seller: Beth Ann Scharrer, BK Trustee for the Estate of Thomas and Sallie Bell
 Lender: American Liberty Mortgage
 Loan Type: Conventional Settlement

Settlement Date: 6/1/2017
 Disbursement Date: / /
 Additional dates per state requirements:

Seller		Description	Borrower/Buyer	
Debit	Credit		Debit	Credit
		Financial		
	\$160,000.00	Sales Price of Property	\$160,000.00	
		Deposit including earnest money		\$2,000.00
		Loan Amount		\$152,000.00
		Title - Insurance Seller Credit		\$875.00
\$875.00		Title - Insurance Seller Credit		
		Prorations/Adjustments		
	\$221.65	Assessments from 6/1/2017 to 12/31/2017	\$221.65	
	\$260.90	HOA Dues 2017 from 6/1/2017 to 12/31/2017	\$260.90	
\$507.82		County Taxes from 1/1/2017 to 5/31/2017		\$507.82
		Title Charges & Escrow / Settlement Charges		
		Title - Endorsement 5.1 to Prominence Title & Escrow, LLC	\$35.00	
		Title - Endorsement 8.1 to Prominence Title & Escrow, LLC	\$35.00	
		Title - Endorsement FL Form 9 to Prominence Title & Escrow, LLC	\$112.50	
		Title - Lender's Coverage Premium to Prominence Title & Escrow, LLC	\$835.00	
\$1,600.00		Title - Settlement Fee to Prominence Title & Escrow, LLC	\$600.00	
\$60.00		Title - Title Search Fee to Westcor Land Title Insurance Company		
		Title - Owner's Coverage Premium to Prominence Title & Escrow, LLC	\$290.00	
		Commission		
\$3,200.00		Real Estate Commission Court Ordered to BK Global		
\$3,200.00		Real Estate Commission (Buyer) to LaRosa Realty LLC		

American Land Title Association

ALTA Settlement Statement - Combined

Adopted 05-01-2015

\$3,200.00		Real Estate Commission (Seller) to McPeak Real Estate Firm, Inc.		
		Government Recording & Transfer Charges		
		Recording Fees to Simplifile	\$224.00	
		Certified Copies Order to Sell to Prominence Title & Escrow, LLC	\$35.00	
		E-Recording Fee to Simplifile	\$14.50	
		Record Court Order to Sell to Simplifile	\$95.00	
\$1,120.00		Transfer Taxes - Deed State to Simplifile		
		Transfer Taxes - Intangible Tax to Simplifile	\$304.00	
		Transfer Taxes - Mortgage State to Simplifile	\$532.00	
		Payoff(s)		
\$136,423.23		Lender: Ocwen Loan Servicing		
		Principal Balance (\$136,423.23)		
		Interest on Payoff Loan ()		
		Miscellaneous		
\$1,694.26		2016 Real Property Taxes Dues Thru 6/2017 to Polk County Tax Collector		
\$8,000.00		Bankruptcy Estate Fee to Beth Ann Scharrer, BK Trustee for the Estate of Thomas and Sallie Bell		
		HOA Estoppel Fee to Imperialakes Community Services Association II, Inc.	\$100.00	
\$50.00		HOA Estoppel Search Fee to Elite Property Research		
\$467.24		HOA Past Dues to Imperialakes Community Services Association II, Inc.		
\$85.00		Municipal Lien Certificate Fee to Elite Property Research		
Seller		Description	Borrower/Buyer	
Debit	Credit		Debit	Credit
\$160,482.55	\$160,482.55	Subtotals	\$163,694.55	\$155,382.82
		Due From Borrower	\$8,311.73	
		Due From Seller		

American Land Title Association

ALTA Settlement Statement - Combined

Adopted 05-01-2015

Acknowledgement

We/I have carefully reviewed the ALTA Settlement Statement and find it to be a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction and further certify that I have received a copy of the ALTA Settlement Statement. We/I authorize Prominence Title & Escrow, LLC to cause the funds to be disbursed in accordance with this statement.

Borrower:

Jacob D. Fullhart

Seller:

Beth Ann Scharrer, BK Trustee for the Estate of
Thomas and Sallie Bell

Borrower:

Sunny Glynn Crockett-Fullhart

I have reviewed the Closing Disclosure, the settlement statement, the lender's closing instructions and any and all other forms relative to the escrow funds, including any disclosure of the Florida title insurance premiums being paid, and I agree to disburse the escrow funds in accordance with the terms of this transaction and Florida law.

Escrow Officer

Label Matrix for local noticing
113A-8
Case 8:16-bk-04709-CPM
Middle District of Florida
Tampa
Fri May 19 16:35:14 EDT 2017

Sallie K. Bell
167 Wood Hall Dr
Mulberry, FL 33860-8522

Thomas A. Bell
167 Wood Hall Dr
Mulberry, FL 33860-8522

(p)SPRINGLEAF FINANCIAL SERVICES
P O BOX 3251
EVANSVILLE IN 47731-3251

Wells Fargo Bank National Association
Robertson, Anschutz & Schneid, P.L.
6409 Congress Ave.
Suite 100
Boca Raton, FL 33487-2853

AMERICAN EXPRESS CENTURION BANK
C/O BECKETT AND LEE LLP
PO BOX 3001
MALVERN PA 19355-0701

Amex
PO Box 297871
Fort Lauderdale, FL 33329-7871

Barclays Bank Delaware
PO Box 8803
Wilmington, DE 19899-8803

(p)BANK OF AMERICA
PO BOX 982238
EL PASO TX 79998-2238

Chase Card
PO Box 15298
Wilmington, DE 19850-5298

Citi
PO Box 6241
Sioux Falls, SD 57117-6241

Imperialkes Community Services Associati
PO Box 5008
Lakeland, FL 33807-5008

Ocwen Loan Servicing L
12650 Ingenuity Dr
Orlando, FL 32826-2703

PYOD, LLC its successors and assigns as assi
of Citibank, N.A.
Resurgent Capital Services
PO Box 19008
Greenville, SC 29602-9008

(p)PORTFOLIO RECOVERY ASSOCIATES LLC
PO BOX 41067
NORFOLK VA 23541-1067

Quantum3 Group LLC as agent for
Sadino Funding LLC
PO Box 788
Kirkland, WA 98083-0788

Soundview Home Loan Trust
4875 Belfort Rd # 130
Jacksonville, FL 32256-6059

Springleaf Financial S
3615 S Florida Ave Ste 1
Lakeland, FL 33803-4876

Synch/American Tire Di
C/o
PO Box 965036
Orlando, FL 32896-5036

Synch/Walmart DC
PO Box 965024
Orlando, FL 32896-5024

Thd/Cbna
PO Box 6497
Sioux Falls, SD 57117-6497

Van Ness Law Firm, PLC
1239 E Newport Center Dr Ste 110
Deerfield Beach, FL 33442-7711

Webbank/fingerhut
6250 Ridgewood Rd
Saint Cloud, MN 56303-0820

Wells Fargo Bank
420 Montgomery St
San Francisco, CA 94104-1298

Beth Ann Scharrer +
Trustee
PO Box 4550
Seminole, FL 33775-4550

United States Trustee - TPA7/13 +
Timberlake Annex, Suite 1200
501 E Polk Street
Tampa, FL 33602-3949

Richard M Dauval, Attorney for Trustee +
LeavenLaw
3900 First Street North, Suite 100
St. Petersburg, FL 33703-6109

Frank Jose Gomez +
Robertson, Anschutz and Schneid, P.L
6409 Congress Ave, Suite 100
Boca Raton, FL 33487-2853

Can Guner +
Robertson, Anshutz & Schneid
6409 Congress Avenue
Boca Raton, FL 33487-2853

Keith Scott Labell +
Robertson, Anschutz, & Schneid, P.L.
6409 Congress Avenue, Suite 100
Boca Raton, FL 33487-2853

Jordan M Finley +

Florida Law Advisers, P.A.

2202 North Westshore Boulevard

Suite 200

Tampa, FL 33607-5749

Note: Entries with a "+" at the end of the
name have an email address on file in CMECF

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Springleaf Financial Services
po box 3251
Evansville, IN 47731-3251

Bk of Amer
PO Box 982238
El Paso, TX 79998-2238

Portfolio Recovery Associates, LLC
POB 41067
Norfolk VA 23541

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)BK Global Real Estate Services
McPeak Real Estate Firm Inc

(u)Catherine Peek McEwen
Tampa

End of Label Matrix	
Mailable recipients	31
Bypassed recipients	2
Total	33